19

Department of and Revenue and Irrigation

OFFICE of the Board of Revenue

STATION Madras

M's No.	1229 / 1229
Dated	8-5-40

F 4516/38

DEPTT. 8-MAY 1940

To the Addl. S.O. for perusal. Recm-40-16½.

(SUBJECT.)

[illegible] - Boundary - Between Srivaikuntha taluk [illegible] and Kovilpatti [illegible] Villages. Dispute in the [illegible] Survey [illegible] - G.O. Communicated

Back Papers.

Dis.	No.	Department. Series.	Date.	Dis.	No.	Department. Series.	Date.

G.O. No. 1628 Rev dt. 8.7.20 (S)
Rs 3635-
8-12-32

Further Papers.

Dis.	No.	Department. Series.	Date.	Dis.	No.	Department. Series.

Revenue Dept. SECY.

16 SEP 1934

Memorandum No.3564 a/34-1, dated the 14th September 1934.

16 SEP 1934

Survey & Boundary - (Bellary) - Siruguppa taluk - Nittur and Hirehalla villages - Island in the Hagari river - Ownership - Ref. G.O.No.134-35 Revenue, dated 1st February 1933.

The Board of Revenue is requested to report after examination of the pairmash records whether during the resurvey of 1302-1305 there was any agreed delimitation of boundary between Hyderabad and Madras.

J.A.Thorne

Secretary to Government.

To the Board of Revenue, Land Revenue and Settlement.

F o r w a r d e d.

(By Order)

Superintendent.

Ex. Reminder from Govt. 1(9-7754/34)
Reply despd

Encl. Remr from Govt (9-1214/35)

C.F.16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..		
When copied ..		
When examined..		
When signed ..		
When despatched.		

SUBJECT:—

Survey – Boundary – Bellary – Siruguppa taluk – Nittur and Hirekallu villages – island in the Tungabhadra river – Ownership

DEST. RECEIVED 21 SEP 1934

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO*:—

No. 9-5807 From the Govt, R.D. Memo, No. 3564 E/34-1, dated 11-9-1934 A

" _____ " _____ " _____ " _____ 19____.

" _____ " _____ " _____ " _____ 19____.

Order / Resolution — Ms. / Rout. No. _____, dated _____ 19____.

Issued on 1934

Ref. 9-5807/34-1 dt 19.9.34

R1. 22-10-34

R2. 20-10-34

Forwarded to the collector of Bellary for early remarks. The paimash records in question together with English translations where necessary, should accompany the Collector's report.

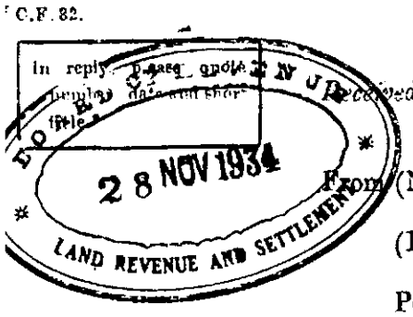
Cos 18-9-34

Lay 18934

U JRC 20.9

.. m ..... of Bellary.

C.F.82. REVENUE DEPARTMENT



Received ... Registered ... RP 28 — G 1459 — G-5807

From (Name) The Hon'ble Mr.F.A.Stewart C.I.E., I.C.S., G-5807

(Designation) Collector,

Post Box ..., (Station) Bellary.

Telegraphic Address ...

To The Secretary to the Commissioners,

Board of Revenue, Land Revenue & Settlement,

Madras

Ref.C. No.4471/34-1 dated 26th November 19 34

Sir.

Enclosures ...

Enclosures ...

...

Spare Copies ...

By Regd Post

Survey - Boundary - Bellary Dist. - Sirguppa Taluk Nittur and Nerakal villages - Island in the Thungabhadra river - ownership.
Ref. Your G.5807/34-1 dated 19.9.34. — 3 sups

The paimash records referred to are not available in this and Taluk Offices. All the old records relating to the period 1800 to 1820 were sent to the Curator of Records with this Office R.Dis. 58 dated 28.2.1913. The following two files are found in the old records of 1880 and 1884 and which I enclose for reference and return. (1) Bellary Collector's No. 3621/80.C.83 which says that the centre of the deep stream is the boundary where a river divides two jurisdictions. (2) S.F. 2746 Miscellaneous dated 27.3.84 relating to the arrangement for the joint inspection of the boundary. The above files relate to the settlement of boundary dispute in connection with some islands in the ... river and not the name of the villages to which the ... belong to is not mentioned. No other records are traceable in this office.

The Enclosures mentioned above are returned herewith.

26.11.34

for Collector.

26.11

.../28.11.34

C.F.16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..	A·S (Sett)	
When copied ..		
When examined..		
When signed ..		
When despatched.	DESPATCHED 5 DEC 1934	

SUBJECT:— Survey — Boundary — Bellary — Siruguppa Taluk — Nittur and Herakal villages — Island in the Tungabhadra river.

READ AGAIN ..... , dated ..... 19....

" " ..... " ..... 19....

READ *ALSO*:—

No. 9-7592 From the Coll^r of Bellary No. Rev. C 4471/34-4, dated 26-11-34 Cy

" ..... " ..... " ..... " ..... 19....

" ..... " ..... " ..... " ..... 19....

Order / Resolution — Ms. / Rout. No. ....., dated ..... 19....

Reject 9-5807/34-2 of 4-12-34

The Coll^r of Bellary is requested to obtain the paimash records in question from the M.R.I and to submit them to the Board with the remarks called for in the Govt^t Memo^m 3564·E/34-1 of 11-9-34

Co 3-12-34

CS 4.12.34

Ry 3/12/34.

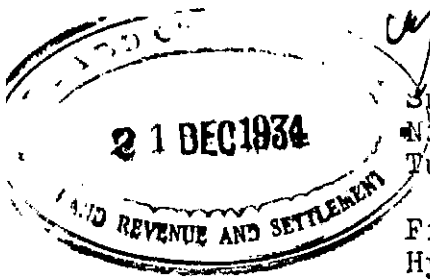
Issued 4.12.34

R I C-4

the Coll^r of Bellary.

(G 814 d)

Revenue Department.



Survey - Boundary - (Bellary) - Siruguppa taluk - Nitturu and Hirekallu villages - Island in the Tungabhadra river - Ownership.

From the Secretary to the Hon'ble the Resident at Hyderabad No.8190-P/866-34, dated 7th December 1934.

....

Endorsement No.3564-E/34-3, dated 21st December 1934.

Referred to the Board of Revenue for remarks in continuation of the Government Memo No.3564-E/34-1, dated 11th September 1934.

E.W.Bouchier,
Under Secretary to Government.

Bd of Revenue, L.R & S.
enclosures.

Forwarded.

(By order,
Superintendent.

reminder from govt (Q-1771/35)
Reply despd

V.B.R/21-12

reminder from govt (Q-2445/35)
Reply despd

Ex. Reminder from Govt
(Q. 3890/35)
Reply despd

No.c190-P/F.866-34.

From

J.H. Thompson, Esq., I.C.S.,
Secretary to the Hon'ble the Resident at
Hyderabad.

To

The Chief Secretary to the Government of Madras,
Madras.

...

Dated Hyderabad Residency, the 7th December 1934.

...

Subject:--Question of jurisdiction over the island in the Tungabhadra River between Nittur and Hirekalli (Madras) and Singapur (Hyderabad).

...

436 (9)

I am directed to refer to Madras Government, Revenue Department letter No.185, dated the 1st February 1933, on the above subject.

2. H.E.H. the Nizam's Government have now forwarded the enclosed record of the discussion of this subject between the representatives of the Hyderabad Government and the Madras Government, at the conference held in Hyderabad in August 1934. It was agreed, they assert that the discussion should not be binding on either Government.

3. His Exalted Highness' Government request that the Madras Government will kindly supply further material from their records or otherwise, in order that a formula satisfactory to both Government may be arrived at for the settlement of this and similar cases, which may arise in future. I am to inform you accordingly, and to request that the proposals of the Government of Madras in this matter may kindly be communicated to me for transmission to the Nizam's Government.

I have the honour to be,
Sir,
Your most obedient servant,
/Sd./ J.H. Thompson,
6-12-34.
Secretary to the Hon'ble the
Resident.

PROCEEDINGS OF THE CONFERENCE HELD AT HYDERABAD ON THE 15th AND 16th AUGUST 1934.

---

xx xx xx xx

xx xx xx xx

VIII. Dispute regarding jurisdiction over the island lying in the Tungabadra river between the boundaries of Nitturu and Hirekallu villages of Siruguppa taluk, Bellary district, on the one side and Singapur and Arhalli villages of H.E.H. the Nizam's territory on the other (Reference correspondence ending with Madras Revenue Secretary's letter No.185 Rev., dated 1st February 1933).

By Madras:- The matter arose in the ordinary course of survey operations, and it is shewn that since 1805 jurisdiction and possession have been with Madras. This should not be disturbed. It is for Hyderabad to state its case, no reply having so far been received.

By Hyderabad:- This Government agreed in 1929 to a joir inspection on the proposal of Madras that there should be a joi inspection to determine the boundary by reproducing the mid-lir of the river in order to establish whether the island was in fact within the British half of the river or beyond it. It has always been the contention of Hyderabad, whether in the case of the Tungabhadra or the Godavary that, both sides of the river having been under the Nizam's jurisdiction and the Treaties having ceded only territory beyond those rivers, the whole of the river bed remained Hyderabad territory. There ought to be on record some general decision regarding boundary in the case of the Tungabhadra, but it has not yet been traced. A referenc has been found to Government of India letter No.976-C, dated 15th May 1872 (pp.37-8 Vol.11 Madras Selections) which may give a clue. Although the island now in question is of small importance, being uninhabited and only 180 acres in extent, it is necessary that the case should be settled on some principle

arising either out of admitted precedent or out of clear texts o
inter-state
industrial law. An exactly converse case has now arisen with th
Central Provinces. The acceptance of a principle by all three
Governments applicable to similar cases still the be settled will
eliminate the element of loss or gain of territory in particular
cases; for what a Government loses in one place it stands to gain
in another.

The case as stated by Madras is based on the proposition that, although the middle line of the deep stream is on the Madra side of the island, this must be treated as an exception to the general rule because Madras has acquired prescriptive right. Opinions of writers on the doctrine of prescription as between on state and another differ, some denying its existence. Some say that possession must go beyond the memory, whereas in the present case it is known that before 1800 both sides of the river were Hyderabad territory. If the case for Madras is based on prescrip tion, the position of Hyderabad must be that, while admitting th the evidence sufficiently establishes long possession by Madras, Hyderabad cannot accept prescription only as a conferring sovereignty.

Further evidence has, however, been obtained from the Head Office of the Survey of India only very recently in the form of one-inch sheet No.83 ("Hyderabad Survey") published by the Survey of India in 1886 and headed "Season 1816-17". This shews the inter-state boundary as running not on the east as in the modern one-inch sheet (sheet 57/A 14 1922) but on the west side of the island. The presumption is that the deep flow of the river ran in 1816 on the west side and that at some time during the next hundred years it shifted to the other side of the river. The eastern branch of the river is shewn as much less wide in the earlier map, and the conformation of the western bank with a bulging curve also raises the presumption that the entrance to th western arm of the river has gradually become raised.

The problem is therefore not one of prescription over an island beyond the admitted middle line of the deep stream, but what is the result on sovereignty where, in a case in which an island bisects a river, the deep flow shifts from one arm to the other. No clear precedent or ruling has yet been traced.

The text-books (e.g. Coulson and Forbes Law of Waters, 4th Edition, 0.93-4) recognize two leading principles, that, where a stream changes its course by slow and imperceptible steps the riparian owners are obliged to accept the consequent alteration in their boundaries, whereas, when the shifting is sudden and well-marked the original medium filum continues to be the border line. The text-book quoted adds that, where a river is bisected into two courses by an island in the middle, the medium filum for boundary purposes is that which bisects the island but that in America at least, if the island be nearer to one side that the other, no account is taken of the smaller branch, the other alone representing the river and its medium filum constituting the prima facie line of division. Hyderabad considers that, although the texts do not deal specifically with a case such as the present, their trend would give Hyderabad jurisdiction.

An important precedent on the Godavary between the two Governments is the Arbitration of 1912. Sir Harry Griffin and the representatives of either Government in the final order of the Court dated July 13th, 1912, laid down that "the middle line of the deep stream is the political boundary between the states.. subject to existing settlements which should remain undisturbed". The expression "existing settlements" was rules to refer to the island of Kottigedda alone which the President of the Court gave to Hyderabad in view of over thirty years possession based on an order of the Government of Madras. The president at the same time laid down the two principles cited above from the text-books It appears from an uncertified copy of Madras G.C.No.1628 Rev., dated the 8th July 1920, that the Government of Madras refrained

from claiming certain islands from Hyderabad, when the deep flow had shifted from one side of the islands to the other, on the grounds, that, although Sir Harry Griffin did not deal specifically with such a contingency, the doctrine arising out of sudden change must apply a fortiori to the case of a mere alteration in the depths of two different channels.

By Madras in reply :- It is a question of fact whether in the present case the change has been sudden or gradual: there is no evidence, nor was the change noticed when it occurred. In any case there is no actual "accretion" by gradual change as the land is still an island. If a principle of general application is to be laid down for pending and future cases, cases already settled between the two Governments being undisturbed, the cases referred to in the Madras G.O. quoted might have to be reopened. A shifting boundary is inconvenient.

It was suggested by Sir Akbar Hydari that a reference to the Government of India might eventually be necessary and that in any case they might have useful precedents.

AGREED: That Hyderabad should now send a formal reply to Madras so that precedents and rulings may be looked up, which may enable the matter to be settled. If a fresh ruling is found to be necessary, Hyderabad will endeavour to reach a provisional agreement with Madras and thereafter to obtain the adherence of the Government of the Central Provinces to a similar agreement. If necessary, the Government of India could then be approached.

That cases already settled between the two Governments should remain undisturbed.

xx xx xx

C.F. 16.

DRAFT FOR APPROVAL.

Date. Initia's.

When received for fair copying .. A.S (Cott)

When copied ..

When examined..

When signed ..

When despatched .. DESPATCHED - JAN 1935

SUBJECT:- Survey - Boundary - Bellary - Sirugappa taluk - Nittura and Hirekallu villages - Island in the Tungabhadra river - ownership

READ AGAIN ....., dated ..... 19 ....

" " ..... " ..... 19 ....

READ *ALSO*:—

No. Q-8148 From the Govt, R.D, No. Endt 3564-E/34-3, dated 21-12-34. A

" ..... " ..... 19 ... Q.to Q.Cy

" ..... " ..... " ..... to be copied

Order / Resolution Ms. / Rout. No. ....., dated ..... 19 ....

Refce Q-5807/34-3 of 4-1-35

26-2-35

Forwarded to the Collector of Bellary for early remarks in continuation of Board's Refce Q-5807/34-1 of 19-9-34.

3-1-35

24.1.35

To the Collr of Bellary

G.P. 93

In reply, please quote ... and the subject title.

_____ DEPARTMENT.

Received 5/4/35 Registered

From (Name) T. Bhaskara Rao Esqr. I.C.S.,

(Designation) Collector of

Post Box _____ (Station) Bellary.

Telegraphic Address _____

To The Secretary to the Commissioners

Land Revenue & Settlement,

Madras.

Ref. C. No. 4471/34, dated 1-4-1935.
K-1.

Sir,

Survey - Boundary - Bellary District - Siruguppa Taluk - Nittur and Herakal villages - Island in the Tungabhadra river - ownership.

Ref:- Your G.No.5807/34-2 dated 4-12-34 and G.5807/34-1 dated 4-1-35.

The old records relating to the survey of this district from 1800 - 1830 were obtained from the Curator, Madras, and consulted. They do not throw any light on the subject. The records are being returned to the Curator. The old paimash records, called for, are not available.

2. As reported in my D.Dis.C.No.5807/31, dated 18-11-32, the paimash account support the prescriptive right of the Madras Government over the island. The record of discussion reveals that the deep flow of the river was in 1816 on the western side of the island in question. If it were so it is a point in favour of the Madras Government. The island should have been located within limits of the British territory during the Thomas Munro's survey of 1802-1806 as the principle adopted then for the delimitation of the interstate boundary was the centre of the deep stream. Please see this office file No.3021/..-1-32 sent with C. No.4471/34-K-1 dated 26-11-34.

2. The exchange reminder No. II dated 2-4-35 is enclosed.

for Collector.

Enclosures
one.

Spare Copies

L5

C.F.16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..	18(sta)	
When copied ..		
When examined ..		
When signed ..	DESPATCHED	
When despatched.	16 APR 1935	

SUBJECT:— Survey — Boundary — Bellary Dt — Sirugupp a taluk — Nittur and Herakal villages — Island in the Tungabhadra river — ownership.

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO*:—

No. Q-1961/35 From the Collr of Bellary, No. Ref ce C-4471/34-H-1, dated 1-4-1935. Q

" _____ " _____ " _____, _____ 19____.

" _____ " _____ " _____ " _____ 19____. p 23 c-f

Order / Resolution Ms. / Rout. No. _____, dated _____ 19____

Ref ce. Q-5807/34-4 of 10-4-35

The collector is requested to submit at an early date a sketch in duplicate showing in one view the island in question, the adjoining portion of the river and also the portions of the villages situated on either side ~~of~~ thereof.

Cis
8-4-35

Ltr
10-4-35

Ltr
4-35

the Collector of Bellary

Note:— There is reference to the western side of the island in the Collr's letter on p 23 c-f. This will be unintelligible only with the help of a sketch. Hence the reference.

Cis ... Ltr 11-4-35

C.F. 32.

In reply, please quote number, date and short title

Revenue DEPARTMENT. G-5807/34-3

Received 26 Apr Registered G 2404

From (Name) T.Bhaskara Rao Esq., I.C.S.,

(Designation) Collector,

Post Box ____, (Station) Bellary.

Telegraphic Address ____

BOARD OF REVENUE
26 APR 1935
To
LAND REVENUE AND SETTLEMENT

The Secretary to the Commissioner,

Land Revenue and Settlement, Madras.

Sir

Ref.C. *No.* 4471/34H1 *dated* 24th April *19* 35

* Survey - Boundary - Bellary District - Siruguppa Taluk - Nittur and Herakal villages - Island in the Tungabhadra river - ownership.
Your Ref. G. 5807/34-4 dated 10th April 1935.

Enclosures ____

Spare Copies ____

Please send the sketch of the island, prepared by the Sub Assistant Director of Survey Madras in 1932, sent to you with this Office D.Dis.C.6615/31-B-2 dated 13th November 1932, in reply to the Board's reference G. 439/32-4 dated 21st July 1932, as it is required for reference in preparing the sketch called for.

For Collector.

s.u.c/25.4.a

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..	13/5 (Sett)	
When copied ..		
When examined ..		
When signed ..		
When despatched.		

SUBJECT :— Survey – Boundary – Bellary Dt – Singrappa Hk – Nittur and Herakal villages – Island in the Tungabhadra river – ownership

READ AGAIN _____, dated _____ 19____

" " _____ " _____ 19____

READ *ALSO* :—

No. Q-2404 from the Collr of Bellary, No. 4471/34-H dated 24-4-1935.

" _____ " _____ " _____ " _____ 19____.

" _____ " _____ " _____ " _____ 19____.

Order / Resolution — Ms. / Rout. No. _____, dated _____ 19____.

Ref. 9-5807/34-5 dt 30-4-35

The Board requests that the sketch of the island in the Tungabhadra river, submitted with DO No 3635 dtd 8-12-32 may be returned to the Board at an early date. This is required in connection with the preparation of the report called for in Govt Endt No 3564-E/34-3 dt 21-12-34,

29-4-35

cc to the Govt R.D.

GOVERNMENT OF MADRAS

Revenue Department.

BOARD OF REVENUE MADRAS. 11 MAY 1938 LAND REVENUE AND SETTLEMENT

RECD 11 MAY 1935

Memorandum No.3564 E/34-4, dated the 9th May 1935.

Re Survey - Boundary - Bellary - Siruguppa Taluk - Littur and [illegible] villages - Island in the Tungabhadra river - Ownership - [illegible] from the Board of Revenue, Land Revenue and Settlement, Ref. G.5807/34-5, dated the 30th April 1935.

The sketch of the island in the Tungabhadra river [illegible] to Government with B.P.3635 Mis. dated the 3th December 1934 is forwarded to the Board of Revenue. It should be returned along with the Board's report called for in Government Endorsement 3564 E/34-3, dated the 21st December 1934.

for E.W.Bouchier

Under Secretary.

To the Board of Revenue, Land Revenue and Settlement (with the plan)

Forwarded
(By Order)

Superintendent.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying	AS (Secty)	
When copied		
When examined.		
When signed		
When despatched.	DESPATCHED 13 MAY 1935	

SUBJECT: Survey – Ground Bellary Dt – Siruguppa Taluk – Nillur and Heravai villages situated in the Tungabhadra river ownership

READ AGAIN. dated ..... 19.....

,, ... 19.....

READ *ALSO*:—

No. Q-404/35 From the Collr of Bellary, No. 4471/34-H1 dated 24-4-1935. Ref. C Q

,, ... ,, ... ,, ... 19.....

,, ... ,, ... ,, ... 19..... ✓ 27 C f

Order / Resolution Ms. / Rout. No. ....., dated ..... 19.....

1 Encl
Lr 14/5/35

✓ 33 C f

Refee Q-5807/34-6 dt 14-5-35

The sketch referred to in the Collector's letter read above is enclosed herewith The collector is requested to return this sketch along with the ~~Cost~~ detailed sketch called for in Bt.'s Refee Q-5807/34-4 dt 10-4-35, which should be submitted at an early date.

BOARD C... R...
MADRAS
30 MAY 1935
LAND REV... ...TION

GOVERNMENT OF MADRAS

Q-5807/34
Q-3138
3

Revenue Department.

No.3564 E/34.

From

H. R. Uzielli Esq., C.I.E., I.C.S.,

Secretary to the Government of Madras,

To

The Secretary to the Hon'ble the Resident at Hyderabad

Dated Fort St.George, the 28th May 1935.

Sir,

Survey - Boundary - Bellary district - Siruguppa taluk - Nittur and Herakal villages - Island in the Tungabadhara river - Ownership - Your letter No.8190 P.R. F.866-34, dated the 22nd May 1935.

I am directed to state that a report has been called for from the Board of Revenue on the above subject and that a reply will be sent to you on receipt of the Board's report.

I have the honour to be,

Sir,

Your most obedient servant,

H. R. Uzielli

Secretary to Government.

Copy forwarded to the Board of Revenue, Land Revenue and Settlement with reference to Government Endorsement 3564 E/34-3 dated the 21st December 1934.

(By Order)

Superintendent.

N.H.

To A.S (Sett)

The detailed sketch called for from the Collr may be awaited. The Collr will be reminded on 14-6-35.

Collr's letter 1-6-35

C.F. 32.

In reply, please quote ... and enclosures and subject/title.

Received 15/6

DEPARTMENT.

Registered

G 3453 / G-5807

BOARD OF REVENUE MADRAS 15 JUN 1935 LAND REVENUE

From (Name) T. Bhaskara Rao Esqr. I.C.S.,

(Designation) Collector of

Post Box ....., (Station) ... ~~B e l l a r y~~.

Telegraphic Address...

To The Secretary to the Commissioners
Land Revenue & Settlement,
Madras.

Ref. C. No. 4471/34 Dated 14th June 1935.

Sir,

Survey - Boundary - Bellary District - Sirugu.pa Taluk - Nittur and Herakal villages - Island in the Tungabhadra river - Ownership - sketches.

ENCLOSURES
Four plans.
~~Four~~ sent Separately by registered Post.

SPARE COPIES
433 supplied

Ref:- Your G. No.5807-34-4, dated 10-4-35.

(F)

I submit herewith a rough sketch in duplicate, of the island, called for in the above reference. The boundary of H.E.H. the Nizam's Dominions bordering the western side of the Tungabhadra river has been traced out in the sketch with reference to the village map of Siruguppa village, which was unofficially obtained from the karnam of the village. A tracing of the map of Singapur village is also enclosed. The eight islands shown in this map as belonging to that village could not be located in the sketch as all the survey marks on the bank of the river are not traceable. If an accurate sketch is necessary the missing survey marks of ~~Siruguppa~~ Singapur village have to be refixed and then connected with the survey marks of the British villages by an angular survey. This work may occupy about a month.

(V)

(E)

2. The sketch received with your C.No.G.5807/34-6 dated 14-5-35 is enclosed.

For Collector.

K.A.R.13-6-35.

1876

'D'

O.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..	15 (sett)	
When copied ..		
When examined ..		
When signed ..		
When despatched.		

SUBJECT:— Survey - Boundary - Bellary - Hyderabad - Siruguppa taluk - Nittuvu and Hirekallu village - Island in the Tungabhadra river - ownership

READ AGAIN ..... , dated ..... 19....

" " ..... 19....

READ *ALSO*:—

No. 9-5807 From the Govt, R.D, No. 3564 Memo dated 11-9-1934 } Q

" 9-8148 " Endt 3564-E/34-1 dated 21-12-34 } Q

" ..... " ..... 19.... } Q

Order / Resolution **Ms. / Rout.** No. ....., dated ..... 19....

Issued on 25.6.35

R. 6-1-36.

Or 7/1

Pr 5 of 23 C-J

Pr 5 C-J

(A)

Refg 9-5807/34-7 dt 25-6-35

The collector of Bellary has reported that the paimash records referred to are not available either in ~~the~~ his office or in the ~~taluk~~ office. The two files noted below found in the old records of 1883 and 188 have been submitted by the coll and they are herewith enclosed for reference and return:-

(1) Bellary collector's No 3621 dated 10-10-1883 which says that the centre of the deep strea is the boundary where a riv

vides two jurisdictions, and
) BP 2748 dt 27-3-1884
regarding the arrangement for
the joint inspection of the boun
here two files relate to the
ettlement of a boundary dispu
connection with some islan
the Tungabhadra river.
he record of discussion forwarde
ith Govt Endt No 3564-E/34-
ted 21-12-34 reveals that
deep flow of the river ran
n 1816 on the western side of th
island in question. This is a
point in favour of the Madras Gov
the island should have been
located within the limits of the British
territory during Sir Thomas Mun
Survey of 1802-1806 as the pri
adopted then for the delimitation
the interstate boundary was the
entre of the deep stream. Vide
Bellary Collector's file No 3621 d
A sketch showing the island
question the adjoining portions of t
river and also the portions of the ve
situated on either side is submitt
The sketch received with the Govt Me
No 3564-E/34-4 dt 9-5-35 is returned

H1

Revenue DEPARTMENT.

F. 32

...eply, please quote ...ber, date and short ...

Received ..... Registered (5958)

9 5807/34

BOARD OF REVENUE
18 SEP 1935
LAND REVENUE AND SETTLEMENT

From (Name) T. Bhaskara Rao Esq., I.C.S..

(Designation) Collector,

Post Box ..... (Station) Bellary.

Telegraphic Address .....

To The Secretary to the Commissioners,

Board of Revenue, Land Revenue and Settlement.
Madras.

Ref.C. No. 4471/34-H1, dated 16-9-1935. 19 .

Sir

*

Survey- Boundary-(Bellary)- District- Siruguppa taluk Nittur and Herakal villages- Island in the Tungabhadra rive ownership.

ENCLOSURES .....

....

....

ARE COPIES.....

Ref:- This office C.No. 4471/34 H-1 dated 26-11-34 in reply to the Board's G.No. 5807/34-1 dated 19-9-1934.

I request to be informed when the two old files (No. 3621/10-10-83 and B.P.No. 2748 Mis dated 27-3-84) sent with the above reference may be expected to be returned to this office

A.S.N./17-9/P. 17/9

For Collector.

O.F.16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..	AS (sctt)	
When copied ..	25/9/35	CKK
When examined..		
When signed ..	25 SEP 1935	
When despatched.	25	

SUBJECT:— Survey — Boundary — Bellary Dt — Sirugappa Tk — Nittur & Herakal villages — Island in the Tungabhadra river — ownership

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO*:— Ref C.

No. 9-5988 From the Coll^r of Bellary, No. 4471/34-H dated 16-9-1935. Q

" _____ " _____ " _____ " _____ 19____.

" _____ " _____ " _____ " _____ 19____.

Order / Resolution — Ms. / Rout. No. _____, dated _____ 19____.

Ref^ce 9-5807/34-8 ✓ 24-9-35

The two files referred to were submitted to Govt with Bd's Rep^ce 9-5807/34-7 ✓ 25-6-35

They will be sent back to the Coll^r ~~have not yet been returned~~ when returned to the Board by the Govt.

Cis
23-9-35

Hb
24/9/35

Jm
23.9.35

To the Coll^r of Bellary

AS(Ctt)

Rejee 4-5807/34-9 dt 1-10-35

The Board requests early orders of the Govt on its reference noted below.

O/C
Dlo
4/10/35

Cis
30-9-35

Jv
30.9.35

Survey - Boundary - Bellary - Hyderabad - Sirugupp a taluk - Nitturu and Hirekallu village - Island in the Tungabhadra river - ownership.

Bd's Rejee 4-5807/34-7 dt 25-6-35

To the under Secy to the Govt R D.

Okk
2/10/35

BOARD OF REVENUE
10 OCT 1935
REVENUE AND S...

GOVERNMENT OF MADRAS

47 6554 G6262 9-5-8

SECY.
10 OCT 1935

Revenue Department.

Memorandum No. 3564-E.34-6, dated the 8th October 1935.

Survey - Boundary - Bellary - Hyderabad - Sirugupa taluk - Nittur and Hirekallu villages - Island in the Tungabhadra river - Ownership.

From the Board of Revenue, L R & S., G.5807-34-7, dated 25.6.35, and the reminder 5807-34-9, dated 1.10.35.

The Board is informed that the Advocate General, Madras, has been requested to advise on certain legal points arising in the case and that his reply is awaited.

E.W.BOUCHIER,
Under Secretary.

To the Board of Revenue, L R & S.

AS (sett) ---

FORWARDED
(By Order)

Superintendent.

(sett)
nal orders of the Govt
e awaited and they
be reminded again on 1-1-36
ssary.

Revenue Department.

Memorandum No.3564-E/34-8, dated the 5th February 1936.

Survey - Boundary - Bellary - Hyderabad - Seruguppa taluk - Nattur and Hirekallu villages - Island in the Tungabhadra river - Ownership - From the Board of Revenue, Ref.G.5807/34-7, dated 25-6-1935

The Board of Revenue is requested to report whether the Tungabhadra river is navigable throughout the year in the reach between the village of Nittur and Hirekal in the Siruguppa taluk, Bellary district on the one side and Singapur and Arhalli villages of H.E.H. the Nizam's territory on the other where the island in dispute is situated.

H. R. Uzielli,
Secretary.

To the Board of Revenue, Madras.

Forwarded.
/By order/

Superintendent

CN/6

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying	AS (Sett)	
When copied		
When examined		
When signed		
When despatched.		

SUBJECT :—

Survey — Boundary — Bellary — Hyderabad — Siruguppa taluk — Nittur and Hirekallu villages — Island in the Tungabhadra river — Ownership

READ AGAIN ——————, dated ——————19——.

" " —————— " ——————19——.

READ *ALSO* :—

No. 9-766 From the Govt., R. D. Memo No. 3564, dated 5-2-1936. A

" —— " —————— " E/34-8 " ——19—— (Mag.,

" —— " —————— " —— " ——19—— to the copies

Order / Resolution — Ms. / Rout. No. ——, dated ——————19——.

Ref. letter to be cited.

Issue queried

Ref. 1

Ref. 2

Ref. 9-5807/34-10 of 11-2-36

Forwarded to the Collector of Bellary for early remarks in continuation of the correspondence ending with Bd's Ref. 9-5807/34 dated 24-9-35.

Clo
11-2-36

Key 43 c

Key 2/36

Key

eb.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying	AS (sett)	
When copied	24/2/36	Cokt
When examined		
When signed		
When despatched		

SUBJECT :— Survey – Boundary – Bellary dist – Siruguppa Taluk – Nittur and Herakal villages – Island in the Tungabhadra river – ownership – return of records.

READ AGAIN ____, dated ____ 19____. ₹51 Cf
Board's Refce 9-5807/34-10 dated 11-2-36 — Q to col only
" " ____ " ____ 19____.

READ *ALSO* :—
No. 9-1079 From the Coll^r of Bellary, No. 4471/34·H·1 dated 15-2-1936 Ref. C Q to Co & A to Govt
" ____ " ____ " ____ " ____ 19____.
" ____ " ____ " ____ " ____ 19____. ₹53 Cf

Order / Resolution Ms. / Rout. No. ____, dated ____ 19____.

Done by 22

Refce 9-5807/34-11 of 22-2-

The two files referred to were submitted to the Govt with Board's Refce 9-5807/34-7 dated 25-6-35. They will be sent back to the Collector as soon as they are returned by the Govt.

Ceo
20-2-36

Ab 24/2/36

286

To the Coll^r of Bellary / Ms 25/2
Fwy to the Secy to the Govt R.

C.F. 32-(a)

In reply, please quote number, date and short

Revenue 57 DEPARTMENT. G-5807

Received 11 MAR 1936 Registered G 1416

From (Name) T. Bhaskara Rao Esq., I.C.S.,

(Designation) Collector

Post Box ....., (Station) Bellary

Telegraphic Address .....

BOARD OF REVENUE 11 MAR 1936

To The Secretary to the Board of Revenue,

M A D R A S.

Ref.C. *No.* 4471/34 H-1, *dated* 9-3-1936 19

Sir,

Enclosures .....

.....

.....

Spare Copies .....

Survey - Boundary - Bellary Hyderabad - Siruguppa taluk - Nittur and Herakal villages - Island in the Tungabhadra river - ownership.

Ref: Your G. 5807/34-10 dated 11-2-1936.

The Tungabhadra river between the British and H.E.H. the Nizam's State villages, where the island in dispute

ispute is situated, is not navigable throughout the year. It is avigable at Herakal and Nittur by means of ferries for 3 or 4 months n a year, when the river is in flo[illegible]

.S. 10/3.

For Collector. 10.3.86

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying	AS (Sett)	
When copied		
When examined		
When signed		
When despatched.		

SUBJECT :— Survey — Boundary — Bellary — Hyderabad — Sirugupp a taluk — Nittur and Hirekallu villages — Island in the Tungabhadra river. — Ownership —

14 MAR 1936

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO* :—

No. 9-1416 From the Collr of Bellary, No. Rev. C 4471/34 - H-1 dated 9-3-1936. A

" _____ " _____ " _____ " _____ 19____ (Mr 57 & 58 C.f to be copied)

" _____ " _____ " _____ " _____ 19____.

Order Ms. No _____, dated _____ 19____.

Refer 9-5807/34-12 dt 12-3-36

Submitted to the govt with reference to their memo No 3564-E/34-8 dated 5-2-36

Cis 12-3-36

12/3/36

W.L. 12/3

8/4/37

W.L. 4.9 C.f 3/8/37

W.L. 9.11.37.

8 W.L. 11.2.38:

12/3/38

BOARD OF REVENUE
3- OCT 1936

96072
9508/34

Revenue Department.

No.3564E/34-16.

***

SECY.
3-OCT 1936

From

H. R. Uzielli Esq., C.I.E., I.C.S.,

Secretary to the Government of Madras.

To

The Secretary to the Hon'ble the Resident

at Hyderabad.

Dated Fort St. George, the 1st October 1936.

S i r,

Survey - Boundary - Bellary - Siruguppa taluk - Nittur and Hirekallu villages - Island in the Tungabhadra river - Ownership - Your letter No.8190-P/F.866-34, dated 7th December 1934.

In paragraph 3 of your letter quoted above, this Government have been requested to furnish His Exalted Highness the Nizam's Government with material from records or otherwise, in order that a formula, satisfactory to both the Governments, may be evolved for the settlement of this and similar cases, which may arise in future. In reply, I am directed to say that the question has been examined in detail and that it is found that on the basis of the material available it is not possible to arrive at any satisfactory formula which would govern this and other similar cases. A careful study of the question shows that in public international law, where a river forms the boundary between two States, the territory of each State extends up to the middle of the river (ad medium filum) unless the river is navigable, in which case the middle of the deep stream, or what is known as the 'Thalweg', is the dividing line. In private law, a stream should be navigable throughout the year in order to be classed as a navigable river, but

but no specific authority can be found to indicate whether or not the same test would be applicable under international law.

The Tungabhadra river at the spot in question is not navigable throughout the year. but whether this would constitute non-navigability for the purpose of international law is a question which need not be considered, as in the present case there are other considerations which are decisive of the rights of the parties. This Government ~~has~~ have been in possession of the island for a very long time and both on that ground and on the ground of prescriptive right they consider they are entitled to the ownership of the same.

2. The Government of Madras would invite attention to their letter No.185 dated 1st February 1933, wherein it has been pointed out that there are records to show conclusively that they have been in possession of, and have exercised rights of sovereignty over, the island for ove One hundred and thirty years. The fact that this Government has been in possession of the island for a very long time is not disputed by His Exalted Highness the Nizam's Government and in fact has already been admitted by them. This Government are of opinion that the question as to the ownership of the island should be decided with reference to this long possession and exercise of sovereign rights.

3. In this connection I am directed to state that in the year 1920 a question arose as to the ownership of certain lankas in the Godavari river opposite the villages of Padigapuram, Gollagudem and Gummagudem of the Nugur Taluk in the East Godavari district. In that case, the deep stream of the river changed its course and flowed

flowed on the Madras side. The question was raised whether as a result of the change the islands came within the jurisdiction of the British Government. The Government of Madras, after a consideration of the question, decided to make no claim to these lankas.

4. In conclusion, the Government of Madras express the hope that in the light of the points set out above and in view of their possession of this island for over 100 years the Government of His Exalted Highness the Nizam will not raise any further objection to the retention of the island in question within the limits of this Presidency.

I have the honour to be,

Sir,

Your most obedient servant,

H. R. Uzielli,

Secretary to Government.

Copy to the Board of Revenue.

F o r w a r d e d

(By Order)

V Ramachandra

Superintendent.

RB

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying		
When copied		
When examined	7/10	SYKES SAM.
When signed		
When despatched.	1 OCT 1936	

SUBJECT :— Survey - Boundary - Bellary - Bellary - ~~Kolo~~ Hyderabad - Siruguppa taluk - Nittur and Hirekallu villages - Island in the Tungabhadra river - Ownership.

READ AGAIN _____, dated Govt letter communicated 19____.

" " _____ " _____ 19____.

READ *ALSO* :—

No. _____ From the pk 57 C/f G. 1416/36 No. _____ Q dated _____ 19____.

" _____ pk 67-69 C/f G. 6072/36 " _____ A " _____ 19____.

" _____ " _____ " _____ " _____ 19____.

~~Order~~ Resolution Rout. No. _____, dated Ref No. G. 5807/34-13 D 19 6-10-36

Issue directly
7-10-36
6/10

C.F. 32.

In reply, please quote number, date and short title.*

67 Revenue. DEPARTMENT.

Received 7/10 Registered 4646 5807/34

From (Name) T.Bhaskara Rao Esq.,I.C.S.,

(Designation) Collector of

Post Box ____, (STATION) Bellary.

Telegraphic Address ____

6-10

6-OCT 1936

To

The Secretary to the Board of Revenue,

MADRAS.

Ref.C. *No.* 4788/36 *dated* 4/10/36. *19*

Sir,

*

Survey - boundary - Bellary District - Siruguppa Taluk - Nittur and Herakal villages - Island in the Thungabhadra river - ownership.

ENCLOSURES ____

SPARE COPIES p 5 cf p 3 c.f.

This office C.No.4471/36 dated 26-11-34 in reply to the Board's G.No.5807/34-1 dated 19-9-1934.

I request that the two old files (No.3621 dated 10-10-83 and B.P.No.2748 Mis.dated 27-3-84) sent with the above reference may be returned to this office.

5-10-36

RVJ/5.10.

For Collector.

8/5/10

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying		
When copied		
When examined		
When signed		
When despatched.		

SUBJECT :— Survey Boundary - Bellary Dt - Bellary - Hyderabad - Sirugappa taluk - Nittur and Hirekalur Vgs Dolands in the Tungabhadra river - Ownership.

READ AGAIN _____, dated _____ 19____.

" P 65 Cf. 285 Ref. 8 " 22-2-36 — R " " _____ 19____.

READ *ALSO* :—

No. _____ From the P 73 Cf. G. 6146/36 — R No. _____, dated _____ 19____.

" _____ " _____ " _____ " _____ 19____.

" _____ " _____ " _____ " _____ 19____.

Order ~~Ms~~ ~~No.~~ _____, dated Ref. No. G. 5807/34-14 8 12-10-36. 19____.

~~Resolution~~ Rout.

The two files referred to in the Collr's letter read above have not yet been received back from the Govt. They will be sent back to the Collr. as soon as they are returned by the Govt.

9.10.36

by

1.10.36

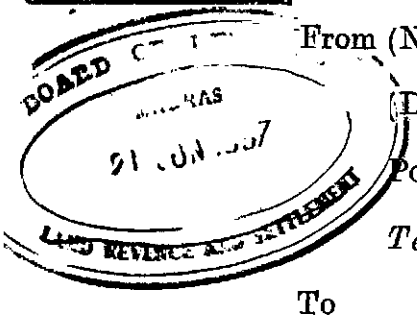
Hs 10/10/36

C.F. 32 (a)

In reply, please quote number, date and short title.*

Revenue DEPARTMENT.

Received *Registered* 17629



From (Name) A. G. Blake Esq., I.C.S.,

(Designation) Collector

Post Box ....., (Station) Bellary.

Telegraphic Address .....

To

The Secretary to the Board of Revenue

MADRAS.

Ref: C *No.* 2469/37, *dated* 16th June 1937

Sir,

Survey - Boundary- Bellary District Bellary- Hyderabad- Siruguppa Taluk. Nittur and Herakal villages- Island in the Tungabhadra river ownership-

---

ENCLOSURES.....

.....

SPARE COPIES.....

Ref: Board's G.No.5807/34-14 dated 12-10-36.

I invite your attention to the above reference and request that the two old files referred to, may kindly be returned if they have been received back from the Government.

H.V.17/6.

For Collector.

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying	As (sett)	
When copied		
When examined		
When signed		
When despatched.	DESPATCHED 28 JUN 1937	

SUBJECT:— survey — Boundary — Bellary 81 — Bellary — Hyderabad — Sirguppa taluk — Nittur and Hirekallu villages — Island in the Tungabhadra river

READ AGAIN ____, dated ____ 19____.

" " ____ " ____ 19____.

READ *ALSO*:—

No. 9-3629 From the Coll r of Bellary, No. Rev. C 2469/37, dated 16-6-1937. Q

" ____ " ____ " ____ " ____ 19____. ✓ 81 C.F.

" ____ " ____ " ____ " ____ 19____.

Order / Resolution Ms. / Rout. No. ____, dated ____ 19____.

Refce 9-5807/34-15-d 24-6-37

Ans 24.6.37

The two files referred to in the Collector's letter read above have not yet been received back from the Govt

Clo 23-6-37

24/6/37

KN 28/6/37

the Coll r of Bellary

Note:- The Govt were last reminded on 27-4-37 and in reply they stated that the subject was under correspondence with the Secy to the Hon'ble the Resident at Hyderabad. Vide p 79 C.F. The Govt

C.F. 32 (a).

Revenue DEPARTMENT.

In reply please quote number, date and short title.*

Received *Registered* 9730

From (Name) T.C.Wood Esq., I.C.S.,

(Designation) Collector

Post Box ..... (Station) Bellary

Telegraphic Address .....

To

The Secretary to the Board of Revenue,

Madras

Ref.C. *No.*478/38....., *dated* 4th February *193*8.

Sir, H-1

Enclosures.....

Spare Copies.....

Survey - Boundary - Bellary district Bellary - Hyderabad - Siguruppa taluk - Nittur and Herakal villages - Island in the Tungabhadr river - ownership.

Ref: Board's G. No. 5807/34-15 dated 24th June 1937.

h 83 Enclosures

I invite your attention to the above reference and request that the two old files referred to may kindly be returned if they have been received back from the Government.

5-2-38.

For Collector.

P.S. 5/2.

C.F. 14.

DRAFT FOR APPROVAL.

	Da...	Initials.
When received for fair copying ..	13 (Dec)	
When copied ..		
When examined..	14/12/37	
When signed ..	5.4	
When despatched.		

SUBJECT :— Survey — Boundary — Bellary Dt — Hyderabad — Siruguppa Taluk — Nittur and Hirekallu village — Island in the Tungabhadra river — Ownership

READ AGAIN ..... dated ..... 19....

" " ..... " ..... 19....

READ *ALSO* :—

No. Q-730 From the Coll r Bellary, Ref. C No. 478/38 dated 4-2-1938. Q

" ..... " ..... " H-1 " ..... 19....

" ..... " ..... " ..... " ..... 19.... 85 C

Order / Resolution Ms. / Rout. No. ....., dated ..... 19....

Refer Q-5807/34-16d) 14-2-

The two files referred t
have not yet been recei
back from the G....

Co
11-2-38

11/2/38

11.2.38

the Coll r of Bellary

Revenue DEPARTMENT.

REMINDER. _____ *Branch.*

To THE Secretary to Government
Revenue Deptt.

BOARD OF REVENUE
6 - SEP 1938
MADRAS

I ~~have the honour to invite~~ am directed to invite attention to Board's ~~invite~~
No. 2207/36-12, dated 12-3-38 and
to request that the ~~reply to~~ Final orders on it may be expedited.
~~request that this reminder may be returned at once with information as to~~

~~(1) the stage at which the matter now is,~~

(2) the date by which a reply may be expected, and

~~(3) the circumstances which have caused the delay.~~

Office Board of Rev.
Station Madras.
Dated 30-8-1938

Signature. [illegible]
for Joint Secretary
Designation

SUBJECT.

REPLY.

To THE Board of Rev.

ASSISTANT
C & E
31 AUG 1938

The reply of the Secretary to the Govt
the Reminder
is enclosed to this letter
letter No. 2206/E/38-1 dated
is called for.

2/9
Under Secy
Dy Secy

To the Supdt

Please see the reply from the Gov overleaf
The Govt. may be reminded again if necessary on
3-a-38

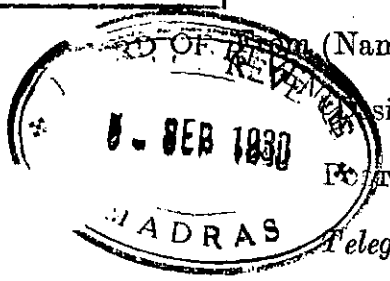
C.F. [illegible] (a).

Revenue DEPARTMENT.

In reply, please quote number, date and short title.*

Received *Registered*

F4905 4/5/16/38



From (Name) J.W. Pritchard Esq., I.C.S.

(Designation) Collector

Post Box STATION) Bellary

Telegraphic Address

To

The Secretary to the Board of Revenue,

Madras.

Ref.C. *No.*3453/38 H.,1 *dated* 3rd September 1938.

Sir,

ENCLOSURES Survey - Boundary - Bellary district - Bellary-Hyderabad-Siruguppa taluk - Nittur and Herakal villages - Island in the Tungabhadra river - ownership.

SPARE COPIES b.87 & f. Ref: Board's G. 5807/34-16 dated 14-2-38.

I invite your attention to the above reference and request that the two old files referred to may kindly be returned if they have been received back from Government.

P.S. 4/9.

For Collector.

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..	15.9	h.
When copied ..	14/9	GS
When examined..		
When signed	16/9	
When despatched		

DESPATCHED
16 SEP 1938

SUBJECT:— Survey - Boundary. Bellary Dist - ~~Hyderabad~~ - Sirugappa Taluk - Nittur and Hirekalla villages - Island in Tungabadra River - Ownership.

READ AGAIN ____, dated ____ 19____.

" " ____ " ____ 19____.

READ *ALSO*:—

No. ____ From the Collr of Bellary. Rys No. 845/38-41, dated 8-9- 19 38

" ____ " ____ " ____ " ____ 19____.

" ____ " ____ " ____ " ____ 19____.

Order / Resolution / Ms. / Rout. No. F. 4576/38-1, dated 15-9-1938.

The two files referred to in the Collector's letter cited above have not yet been received back from the Govt.

Sahi
14.9.38.

14/9

Agree
15/9

To Collector of Bellary.

OFFICE OF 1
24 OCT 1939
GOVERNMENT OF MADRAS

83

4576/38

F6552

Revenue Department.

21 OCT 19

MEMORANDUM No.3534-EC/3434, DATED 18TH OCTOBER 1939.

Survey - Boundary - Bellary - Seringuppa taluk, Nittur and Harikall villages - Island in the Tungabhadra river - Ownership.

From the Secretary to the Hon'ble the Resident at Hyderabad, No.7333 P/F-807-1938, dated 23rd September 1939.

A copy of the letter quoted above from the Secretary to the Hon'ble the Resident at Hyderabad is forwarded to the Board of Revenue. The Board of Revenue is requested to report whether it sees any objection to accepting the proposed settlement subject to the conditions specified by the Hyderabad Government. The Government have no information regarding "the settlement which may hereafter be arrived at with His Excellency the Crown Representative" referred to in the letter forwarded herewith.

S. J. Augustus,

Assistant Secretary to Government.

To the Board of Revenue (with a copy ~~of letter~~ of the Resident's letter with enclosure).

F o r w a r d e d.

(By Order)

P. Thimmappa Mudaliyar 25/10

Superintendent.

E.S.

Copy of letter from the Secretary to the Hon'ble the Resident at Hyderabad, No.7333-P./F.607-1938, dated the 23rd September 1939.

Subject.

Jurisdiction over the island in the Tungabhadra river between Nithur and Hirekalli (Madras Presidency) and Singapur (Hyderabad State).

I am directed to refer to your letter No.3564-E/34-13, dated the 1st October 1938, and to enclose, for the information of the Government of Madras, a copy of letter No.2099, dated the 15th August 1939, from H.E.H. the Nizam's Government on the above subject.

Copy of letter No.2099, dated 15th August 1939, from the Political Secretary to H.E.H. the Nizam's Government, Hyderabad, Deccan, to the Secretary to the Hon'ble the Resident at Hyderabad.

Subject:- Question of the jurisdiction over the island in the Tungabhadra river between Nithur and Hirekalli (Madras Presidency) and Singapur (Hyderabad State).

Kindly refer to Mr. Thompson's letter No.3988-P, dated the 10th October 1938, on the above subject.

I am now desired to inform you that after considering the case, His Exalted Highness the Nizam's Government is of opinion

that medium filum of a river between two States should normally be assumed as the boundary line, but at the same time the Government must admit that it would, beyond doubt, cause inconvenience or injustice to individuals if the shifting of the deep channel from one side to the other is held to transfer the sovereignty as in the solution of boundary disputes between Governments the Governments are not the only parties but the people primarily concerned i.e. the inhabitants or all those who have old right of possession or user over the disputed land are also taken into account. It is therefore advisable that boundary should follow the traditional possession without regard to either the centre of the deep channel or to the centre between the right and left banks of the river. But while His Exalted Highness' Government agree to the principle that where medium filum shifts, possession should not be affected it must insist that mere possession cannot be the determining factor. On this basis the claim of the Madras Government to the island in question is accepted, but the settlement would be conditional on Government of Madras accepting this basis as a general principle to all cases arising between two Governments and without prejudice to the settlement which may be hereafter arrived at with His Excellency the Crown Representative with regard to the ownership of land affected by a change in the course of a river or its deep channel.

32

C.F.16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ...		
When copied ..		
When examined..		
When signed ..		
When despatched.		

SUBJECT:— Survey - Boundary - (Bellary). Serugupp taluk - Nittur and Harikal villages - Island in the Tungabhadra River - Ownership.

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO*:—

No. _____ From the Govt R.O. Memo., No. 3564/3434 dated 18.10.1939. A

" _____ " Collr. of Bellary Rly. C., No. 3453/38-H-1 dt 3.9.1938. Q.

" _____ " _____ " _____ " _____ 19____.

Order / Resolution / Ms. / Rout. No. F 4576/38-2, dated 7.11.1939.

Forwarded to the Collr. of Bellary for early Remark

HD 1/11/39

RI to Collr. Bellary dt 30.11

2/11/39 RII dt. 12.12.39 to Collr.

30.10.39

To

The Collr. of Bellary

RIII to Collr dt. 6.1.40

4.1

C.F. 32.

Revenue DEPARTMENT.

In reply, please quote number, date and short title.*

F 75

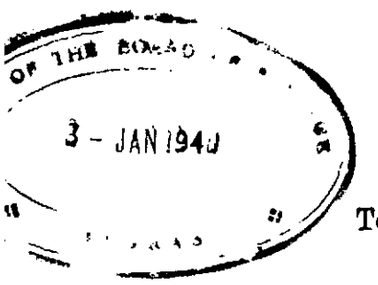
Received _____ *Registered* _____

From (Name) A.D.Crombie Esq., C.I.E., I.C.S.,

(Designation) Collector

Post Box _____, (Station) Bellary,

Telegraphic Address _____



To

The Secretary to the Board of Revenue,

Madras.

L.Dis. *No.* 5461/H-1, *dated* 20-12-1939.

Sir,

Enclosures _____

_____

_____ p87y

Spare Copies _____

Survey - Boundary - Siruguppa taluk - Nittoor and Herakal villages - island in the Tungabhadra river - ownership - report submitted.

Ref; your Ref. F. No. 4516/38-2 dated 2-11-1939.

It is a general principle that medium line of a river is the recognised or settled boundary line between two States; but when, large blocks of islands (as in the present case) which belong to British Government happen to lie beyond the British boundary line, the question of possession and control arises. The inconveniences referred to in such cases are not material or great as the claim or right based on ownership of the lands will prevail, the boundary line being only a formal one.

2. If any piece of land or island should lie midway i.e., on the boundary line, the shifting of the deep channel would raise the question of the sovereignity of the portions of such land or island between two Governments. In such cases, it will be a moot point for consideration whether the Government which has ownership over the full block should transfer the ownership of the portion that is beyond the boundary line. If the Governments agree to such transfers

the inconveniences, referred to in the reference cited above will arise. It seems therefore advisable that boundary should follow traditional possession and I submit that pos n should be the determi factor as otherwise the disputes over traditional ownerships cannot be avoided.

21.12.35

For ~~Collector~~.

11-30

S.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..	28/2	
When copied ..	29/2	
When examined..	29.2	
When signed ..	29/2	
When despatched.	DESPATCHED 1 - MAR 1940	

SUBJECT:— Survey - Boundary - (Bellary) - Siruguppa Taluk - Kottur and Kire - Kallu villages - Islands in the Tunga-bhadra River - Ownership.

READ AGAIN 1 - MAR 1940, dated ..... 19.....

" " ..... " ..... 19.....

READ *ALSO*:—

283 86C | No. ..... From the Memo. No. 3564-1ce | 34-34 No. Rev. dated 18-10-39 19 39 Q.

-90C | " ..... " Collr. of Bellary | Pls No. 5461 | " 11 dt. 20-12-39 19 39 A.

" ..... " ..... " ..... 19.....

Refce. Order / Resolution Post. No. F4516 | 38-3, dated 28-2-40 19 40.

The Collr's letter read above is submitted to the Govt. with Refce. to their Memo. No. 3564-1ce 34-34 Rev. dt. 18-10-39.

2. The A.G.Co. who was also consulted in the matter, states that in so far as the islands in the Godavari River are concerned, the views expressed by the Hyderabad State may be accepted and that it would be advisable to indicate in a map of the River the relative positions of the islands likely to be affected by a deviation of

283 86C

in respect of the Tungabhadra River, the only other River between Madras Province and the Hyderabad State, I suggest that the precise views of the State may be ascertained whether it ~~[illegible]~~ favours an unalterable frontier or a medium line for the time being, before an opinion is expressed. The Board goes with him and recommends that the Hyderabad Govt. may be called upon to express their views as to whether ~~[illegible]~~ it favours an unalterable frontier indicated on a map or to have the frontier the medium line for the time being.

A copy of his note dt 12.2.40 is enclosed

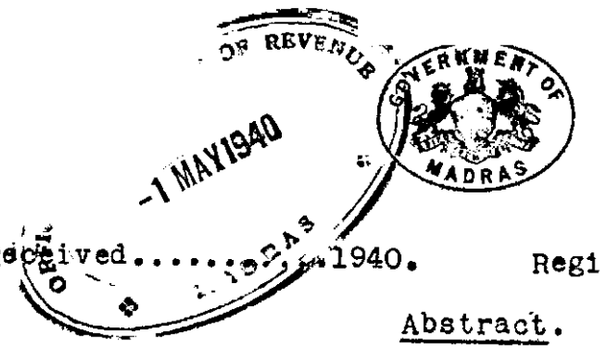
address in response to the

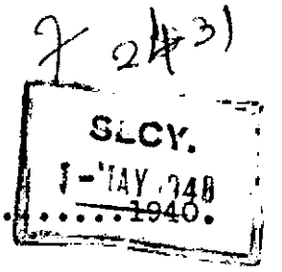
Ad
28/2/40

27/2/40

To the Secretary to the Govt of
(With a copy of the notes of
the Board and enclosures)

Mark 29 on take ? ark
(Copies sent) Section





Received.....1940. Registered.....1940.

Abstract.

Survey - Boundary - Bellary - Siruguppa taluk - Nittur and Hirekallu villages - Island in the Tungabhadra river - Ownership.

REVENUE DEPARTMENT.

G.O.No.Ms.1073, Dated 29th April 1940.

Read the following:

Revenue Department Memorandum No.3564-E/34-1, dated 11th September 1934.
Revenue Department Endorsement No.3564-E/~~42~~ 34-3, dated 21st December 1934.
From the Board of Revenue, Ref.G.No.5807/34-9, dated 25th June 1935.
Revenue Department Memo. No.3564-E/34-8, dated 5th February 1936.
From the Board of Revenue, Ref.G.No.5807/34-2, dated 12th March 1936.
Letter to the Secretary to the Hon'ble the Resident at Hyderabad, No.3564-E/34-16, dated 1st October 1936.
Letter from the -do- No.7333/P/F.607/38, dated 23rd Sep. 1939.
Revenue Department Memo. No.3564-E/34-34, dated 18th Oct. 193[illegible]
From the Board of Revenue, Ref.No.F.4516/38-3, dated 29th February 1940.

O R D E R -

The correspondence read above relates to a dispute between the Government of Madras and the Government of His Exalted Highness the Nizam of Hyderabad regarding the ownership of an island situated in the Tungabhadra river between the Nittur and Hirekallu villages of Siruguppa taluk, Bellary district on the one side and Singapur and Arhalli villages of His Exalted Highness the Nizam's territory on the other. In a plan of 1816-17 the b[illegible]ary is shown as running to the west (or Hyderabad side) of the island and there is ample proof that the British Government hav[illegible] the beginning of the nineteenth century exercised sovereign rights over the island. In this river the boundary betwee[illegible]adras and Hyderabad is generally recognised

as being the middle of the river. The island in question now lies on the Hyderabad side of the deep stream of the river. The question is whether in consequence of this the ownership of the island has passed to the Hyderabad Government. In their letter dated 15th August 1939 forwarded by the Secretary to the Hon'ble the Resident at Hyderabad with his letter dated 23rd September 1939, His Exalted Highness the Nizam's Government have stated that, while the medium filum of a river between two States should normally be assumed to be the boundary line, it would cause inconvenience or injustice to individuals if the shifting of the deep channel from one side to the other is held to transfer the sovereignty and that it is therefore advisable that the boundary should follow the traditional possession without regard to either the centre of the deep channel or to the centre between the right and left banks of the river. They accordingly agree to the principle that, where the medium filum shifts sovereignity should not be thereby affected, provided that mere possession shall not be considered to be the determining factor and state that they are prepared to admit the claim of the Madras Government to the island in question provided that the Government Madras will accept the principle stated above as a guiding principle in all cases of the sort arising between the two Governments. They also declare that this decision shall be without prejudice to any settlement which may hereafter be arrived at with His Excellency the Crown Representative in regard to the ownership of land affected by a change in the course of a river or its deep channel.

2. In its Reference dated 29th February 1940, the Board of Revenue has suggested that the Hyderabad Government may be asked definitely to state whether it

favours an unalterable frontier or a median line for the time being. The Government do not consider that the question of a permanent or shifting boundary on the Tungabhadra river need be raised as disputes in this locality are rare and the sites of little value. They are of the opinion that the principle enunciated by the Hyderabad Government may be accepted on the presumption that by the expression "mere possession" occurring in the penultimate sentence of their letter the Hyderabad Government mean "possession at the time of dispute which is not longstanding or traditional". Pending further orders the island in question should therefore be regarded as belonging to the Madras Government.

3. The following letter will be sent to the Secretary to the Hon'ble the Resident at Hyderabad.

(By Order of His Excellency the Governor).

B.G. HOLDSWORTH,
Secretary to Government.

To the Board of Revenue.

Copy to the Public (Political) Department.

(True copy)
FORWARDED.
(By Order).

P. Srinivasa Murthy
Superintendent. 30/4/40

v.s.v.29-4.

REVENUE DEPARTMENT.

No.Ms. 1074.

From

B.G. HOLDSWORTH ESQ., I.C.S.,

Secretary to the Government of Madras,

To

The Secretary

to the Hon'ble the Resident at Hyderabad.

Dated, Fort St. George, the 29th April 1940.

Sir,

Survey - Boundary - Bellary - Siruguppa taluk - Nittur and Hirekallu villages - Island in the Tungabhadra river - Ownership.

Your letter No.7333-P/F-607-1938, dated 23rd September 1939.

I am directed to state that this Government agree that the general principle suggested in the letter from His Exalted Highness the Nizam's Government forwarded with your letter quoted above should apply to all similar cases arising between the two Governments, without prejudice to any general settlement on the legal question which may hereafter be arrived at with His Excellency the Crown Representative. In accepting the principle suggested this Government presume that by the expression "mere possession" occurring in the penultimate sentence of ~~kkkm~~ their letter the Hyderabad Government mean "possession at the time of dispute which is not longstanding or traditional".

2. In the circumstances the island will for the present continue to be treated as belonging to the Madras

Government

Government as agreed to by His Exalted Highness the Nizam's Government.

I have the honour to be.

Sir.

Your most obedient servant,

B.G. Holdsworth,

Secretary to Government.

C.A.N.

G.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..	9/5	12.5 MG
When copied ..		
When examined..	9.5.	H.V.H.R
When signed ..		
When despatched.		

SUBJECT:— Survey - Boundary - (Bellary) - Siringuppa taluk - Nittur and Hirekalla villages - Island in the Tungabhadra River - Ownership. G.O. Communicated.

READ AGAIN ....., dated ..... 19.....

" " ..... " ..... 19.....

READ *ALSO*:—

No. ..... From the Collr. of Bellary D.Dis. No. 5461 | H-1, dated 20.12.1939 Q.

" ..... " G.O. No. Ms. 1073 Rev. dt. 29.4.40 19.... A.

" ..... " ..... " ..... " ..... 19.....

~~Order~~ / Resolution ~~Rout.~~ Ms. No. 1229, dated 8-5-1940.

Communicated to the Collr. of Bellary.

hw 7/5/40

to the Collr. of Bellary.

by print please type a spare copy of the G.O.

Issue copies & send to H.S.C.

8/5

Extract from the Proceedings of the Hyderabad Conference

VIII. Dispute regarding jurisdiction over the island lying in the Tungabhadra river between the boundaries of Nitturu and Hirekallu villages of Siruguppa taluk, Bellary District on the one side and Singapur and Arhalli villages of H.E.H. the Nizam's territory on the Other. (Reference correspondenc ending with Madras Revenue Secretary's letter No. 185-Rev., dated 1-2-1933.

Ms 3536
F.P. No. 363 Mis
18-12-32

By Madras. The matter arose in the ordinary course of survey operations, and it is shown that since 1805 jurisdiction and possession have been with Madras. This should not be disturbed. It is for Hyderabad to state its case, no reply having so far been received.

By Hyderabad. This Government agreed in 1929 to a joint inspection ~~of~~ the proposal of Madras that there should be a joint inspection to determine the boundary by reproducing the mid-line of the river in order to establish whether the island was in fact within the British half of the river or beyond it. It has always been the contention of Hyderabad, whether in the case of the Tungabhadra or the Godavari that, both sides of the river having been under the Nizam's jurisdiction and the Treaties having ceded only territory beyond those rivers, the whole of the river bed remained hyderabad territory. There ought to be on record some general decision regarding boundary in the case of the Tungabhadra, but it has not yet been traced. A reference has been found to Government of India letter No. 976-C dated 15th May 1872 (pp.37-8 Vol. 11 Madras Selections) which may give a clue. Although the island now in question is of small importance, being unhabited and only 130 acres in extent, it is necessary that the case should be settled on some principle arising whether out of admitted precedent or out of clear texts of interstatal law. An exactly converse case has now arisen with the Central Provinces. The acceptance of a principle by all three Governments

applicable to similar cases still to be settled will eliminate the element of loss or gain of territory in particular cases, for what a Government loses in one place it stands to gain in another.

The case as stated by Madras is based on the proposition that, although the middle line of the deep stream is on the Madras side, of the island, this must be treated as an exception to the general rule because Madras has acquired prescriptive right. Opinions of writers on the doctrine of prescription as between one state and another differ, some denying its existence. Some say that possession must go -- beyond memory whereas in the present case it is known that before 1800 both sides of the river were Hyderabad Territory. If the case for Madras is based on prescription, the position of Hyderabad must be that, while admitting that the evidence sufficiently establishes long possession by Madras, Hyderabad cannot accept prescription only as conferring sovereignty.

Further evidence has, however, been obtained from the Head Office of the Survey of India only very recently in the form of one-inch sheet No.83 ('Hyderabad Survey') published by the Survey of India in 1886 and headed "Season 1816-17" This shows the inter-state boundary as running not on the east as in the modern one-inch sheet (sheet 57/A 14 1922) but on the west side of the island. The presumption is that the deep flow of the river ran in 1816 on the west side and that at some time during the next hundred years it shifted to the other side of the river. The eastern branch of the river is shown as much less wide in the earlier map, and the conformation of the western bank with a bulging curve also raises the presumption that the entrance to the western arm of the river has gradually become raised.

The problem is therefore not one of prescription over an island beyond the admitted middle line of the deep stream, but what is the result on sovereignty where, in a case in which an island bisects a river, the deep flow shifts from one arm to the other. No clear precedent or fuling has yet been traced.

The text-books (e.g. Coulson and Forbes - Law of Waters 4th Edition, p.93-4) recognise two leading principles, that, where a stream changes its course by slow and imperceptible steps, the riparian owners are obliged to accept the consequent alteration in their boundaries, whereas, when the -- shifting is sudden and well-marked the original medium filum continues to be the border line. The text-book quoted adds that, where a river is bisected into two courses by an island in the middle, the medium filum for boundary purposes is that which bisects the island but that in America at least, if the island be nearer to one side than the other, no account is taken of the smaller branch, the other alone representing the river and its medium filum constituting the prima facie line of division. Hyderabad considers that, although the texts do not deal specifically with a case such as the present, their trend would give Hyderabad jurisidiction.

An important precedent on the Godavari between the two Governments is the Arbitration of 1912. Sir Harry Griffin and the representative of either Government in the final order of the Court dated July 13th, 1912 laid down that "the middle line of the deep stream is the political boundary between the states.....subject to existing settlements which should remain undisturbed". The expression "existing settlements" was ruled to refer to the island of Motigedda alone which the

the President of the Court gave to Hyderabad in view of over thirty years possession based on an order of the Government of Madras. The president at the same time laid down the two principles cited above from the text-books. It appears from an uncertified copy of Madras G.O.No.1628 Revenue dated ~~the~~ 8th July 1920 that the Government of Madras refrained from claiming certain islands from Hyderabad, when the deep flow had shifted from one side of the islands to the other, on the grounds that, although Sir Harry Griffin did not deal specifically with such a contingency, the doctrine arising out of ~~xxx~~ sudden change must apply a fortiori to the case of a mere alteration in the depths of two different channels.

By Madras in reply:- It is a question of fact whether in the present case the change has been sudden or gradual; there is no evidence, nor was the change noticed when it occurred. In any case there is no actual "accretion" by gradual change as the land is still an island. If a principle of general application is to be laid down for pending and future cases, cases already settled between the two Governments being undisturbed, the cases referred to in the Madras G.O. quoted might have to be reopened. A shifting boundary is inconvenient.

It was suggested by Sir Akbar Hydari that a reference to the Government of India might eventually be necessary and that in any case they might have useful precedents.

Agreed:- That Hyderabad should now send a formal reply to Madras so that precedents and rulings may be looked up, which may enable the matter to be settled,. If a fresh ruling is found to be necessary, Hyderabad will endeavour to reach a provisional agreement with Madras and thereafter to obtain

the adherence of the Government of the Central Province to a similar agreement. If necessary, the Government of India could then be approached.

That cases already settled between the two Governments should remain undisturbed.

A.S (Gette)

This is an extract of the Proceedings of the Conference held at Hyderabad, regarding the dispute about the island in the Tungab

2/ It has been agreed at the Conference that the Hyderabad Govt should send a formal reply to the Madras Govt. Meanwhile the Board has been asked to report after examination of the Paimash ~~accounts~~ records whether during Thomas Munro's survey of 1802-05 there was any agreed delimitation of the boundary between Hyderabad & Madras. The remarks of the Collr of Bellary and the connected paimash records have been called for. The collector's remarks may be awaited.

P 3 C J

Cio 28-9-34 by 29/9/34 by 29/9/34 J 29.9.34

J.S

To joint-Sec?

D.O reminder to the collr ✗ Reply on p 21 C
of Bellary is submitted to be quoted

(Report since
recd of reminder unnecessary

No
4/35

D02
27.5.35.

D.O.No.3564 E/34.

Revenue Secretary's Office,
Stonehouse Hill,
The Nilgiris,
Dated the 23rd May 1935.

My dear Vellodi,

Survey - Boundary - Bellary district - Sirug taluk - Nittur and Herakal villages - Island in the Tungabhadra River - Ownership - Government Endorseme No.3564 E/34-3 dated 21st December 1934.

I am to request that an early reply may be sent to the Government Endorsement quoted above.

The sketch asked for by the Board of Revenue in its Reference G.5807-34-5 dated 30th April 1935 was sent to the Board with Government Memorandum No.3564 34-4 dated 9th May 1935.

Yours sincerely,
W Bouchier

To

M.K. Vellodi Esq., I.C.S.
Joint Secretary, Board of Revenue,
L.R. & S.

E.A.P. 23/5

J.S
AS (Sett)

To AS (Sett)

Please see the D.O reminder from the Under Secy to Govt on p 6 ante.

p 33 c f

The sketch received from the Govt has been forwarded to the Coll^r and a detailed sketch is awaited from him. He has been asked to send this sketch at an early date. The Board's reply will be submitted to the Govt as soon as this sketch is received.

The following reply may be sent to the Under Secy

sent D.O. by 3 Dft 3.6.35

D.O. 297
31.5.35

My dear Bourdillon,

Survey – Boundary – Bellary district – Siruguppa taluk – Nittur and Heralal villages – Island in the Tungabhadra river – ownership.

p 6 ante Your D.O No 3564-E/34 of 23-5-35

The sketch received from the Govt has been forwarded to the Coll. of Bellary and a detailed sketch has been called for from him. The Board's reply will be submitted to the Govt as soon

p 33 c f also p 25 c f

as the detailed sketch is received from the Coll.

Yours sincerely

CWS 27-5-35 — 28/5/35 — 30/5

27/5/35

To E. W. Bouchier Esq.

Under Sec. to the Govt., Rev.

DESPATCHED
28 MAY 1935

To As. (Sett.)

Please see the Govt. Memorandum dated 1st Aug. cf. and the reports of the Coll. of Bellary at pp 5, 2-3 & 37 cf. 2/- The Govt. have asked the Board to report after examination of the Paimash records whether during the Survey of 1802-1805 there was any agreed delimitation of the boundary between Hyderabad and Madras. The Coll. says that the Paimash records referred to are not available. He has however submitted the following two files, found in the office (1) Bellary Coll. No. 36-21/10-10 1/4 which contains that the centre of the deep stream

is the boundary where a river divides two jurisdictions and (2) BP 2748 dtd 27-3-84 regarding the arrangement for the joint inspection of the boundary.

A sketch showing the island in question, the adjoining portions of the river and the portions of the villages situated on either side thereof is at (F)

The record of discussion reveals that the deep flow of the river in 1866 ran on the western side of the island in question. The coll ± observes that this is a point in favour of the Madras Govt & that the island should then have been located within limits of the British territory during Sir Thomas Munro's survey of 1802-1806 as the principle adopted then for the delimitation of the interstate boundary was the centre of the deep stream Please see the Bellary Coll's office file No 3621 dated 10-10-1883. These facts may be reported to Govt.

at-p 49 C-J

Draft reference to the Coll^r of Bella

jo Bnd

Ces
11-2-36

11.2.36

D.O.T.S.(Scott)

Please see the letter of the

Coll^r of Bellary dt. 4th & 5th Oct

21 old files of 1883-1884

sent by the coll^r were submitted to

the Govt with the Bd's Reference No. 5

A call reference to coll^r is submitted

20-2-36

Tel 20.2.36

To A.S.(Scott)

Please see the Govt memo No.

at p 49 C-J and the coll^r report on

Nos 57 & 58 C-J

Draft to Govt is submitted.

Cis

12-3-36

12.3.36.

[BD Rel. G. 5807/34; 12-9-12-3-36/

G. 6072/36

AS (Scott)

Please see the copy of the letter

from the Govt of Madras to the Secy. to the Hon'ble the Resident at Hyderabad at pp 67-69 c/f. It may be communicated to the Collr. of Bellary and the final orders in the matter awaited. Draft submitted.

5-10-36

5.10.36.

J.S.

[Issued as Bds' Ref. No. G. 5807-34-13 dy 6-10-36]

G. 6146/36

As (Sett)

Please see the letter from the Collr. of Bellary at ~~pp 1 to 4~~ pp 73 c/f.

2. The two files in question were sent to Govt with the Board's Ref. at pp 39-40 c/f and they have not yet been received back. They will be sent back to the Collr. as soon as they are returned by the Govt. The Collr. may be informed accordingly. Draft submitted.

9-10-36.

10.10.36.

~~From the Collr. of Bellary and the Govt. have been reminded~~ ~~Draft to Collr. submitted~~

Cis 11-2-38

11/2/38

Issued as Boards. Ref. G. No. 580)/34-14 D/14-2-38.

From the Collr. of Bellary Ref. C. No. 8453/38-H. D/3-9-

H.S. (Selt):

Please see the letter from the Collr. of Bellary at p. 79 C.f. one from Lies referred to by the Collector have not yet been received back from the Govt. The Govt. were last reminded on 30-8-38 and in reply they stated that the reply of the Secretary to the Hon'ble the Resident at Hyderabad is awaited.

Draft reply to the Collr. is submitted

Kaly 14-9-38

Kaly 14/9

86cf. Set forth in the Hyderabad Govt.' letter at pp 85-8 of for the Settlement ~~Regarding~~ the ownership of the isla in the Tungabhadra River. ~~Before~~ The Memo. may be referred to Collr. of Bellary for early Report Draft Submitted.

hsv 1/11/37

20/10/37

3/11

From the Collr. of Bellary. d. Dis. No. 5461/4-1 dt. 20-12-37.

To A.S. (Sett)

In their Memo. at p. 83 cf., The Govt. referred the letter of the Hyderabad Govt. at pp. 85-86 for remarks. In that letter, the Hyderabad Govt. ~~Sett~~ out their terms for the Settlement of the dispute regarding the ownership of the island in the Tungabhadra River as follows:

(1) that the claims of the Madras Govt. is acceptable on grounds of possession.

(2) that the terms, if accepted would be a general principle applicable to all cases arising between the two Govts. in future, and

(3) that the terms of Settlement will not be prejudicial to the Settlement which the Hyderabad Govt. may hereafter arriving at with his Excellency the Crown Representative.

For the 'general principle' is note at p 15
hsv

21. The Memo. and the letter was

referred to the Collr. of Bellary for report. Vide pp 84-5
the Collr. has stated in the course of that the
usual principle that medium filum of a river
be recognised as settled boundary
hold good in this case if future inconveniences
are to be minded as considerations, advisable
that possession should be the determining factor in
settling the disputes. The Collr's recommendation is
based on good grounds. It may be accepted.

~~3/ The Collr has not Commented~~
To
on the other two points of the Hyderabad Govt. the
govt's Second term, that the recognition of the term
of Settlement in this case ~~should~~ be a general
principle in all future disputes, attention
is invited to the Collrs' letter at pp 89-90 ct. Thus
the Collr has stated that to avoid all future disputes
it is advisable that the boundary should follow
traditional possession. If the Collrs recommendation
mentioned in para 2. above is accepted then this
~~term can be accepted~~

3 ~~d~~. Regarding term 3 of the Hyderabad
Govt., this Govt. have stated in their Memo, dated 15.10.38
have no information regarding the settlement
which may hereafter be arrived at with His
Excellency the Crown Representative. The
Hyderabad Govt. perhaps refers to the proceedings
of the Conference held at Hyderabad in Aug

they have referred to the disputes between them and this Govt. and the Govt. of Central Provinces and have stated that "if necessary, the Govt. of India could be approached". Perhaps what the Hyderabad Govt refers to is a common agreement to be arrived at between them and the Crown Representative regarding the frontier boundaries between them and Madras and Central Provinces ~~this question requires a careful examination.~~ Perhaps ~~it~~ it may be referred to the A.D.Co. for remarks before arriving at any decision.

Forwarded.

The general principle laid down by the Hyderabad Govt is as follows:—

The medium filum of the intervening river should normally be assumed as the boundary line but where the medium filum shifts, possession should not be affected. In such cases boundary should follow the tradition possession without regard either to the centre of the deep channel or to the centre between the right and left banks of the river. Where possession should not, however, be the determining factor.

The Govt want to know whether the Board sees any objection to the proposed settlement subject to this being accepted as a general principle to be followed in all cases of such disputes between the two Govts.

The Collr of Bellary says that possession should be the determining factor. What the Hyderabad Govt apparently mean

by ruling out mere possession as the determining factor is that possession would prevail only where the media filum is shown to have shifted and that where it has not shifted, the medium filum shd be assume to be the boundary line. There seems to be no harm in accepting this as a general basis for t settlement of all boundary disputes where a river flows between the two territories. The mid-line will normally be considered to be the boundary but where it is proved to have shifted, the boundar will follow actual traditional possession.

The last may be urged that the Board sees no objection to the proposed settlement on the condition

of Hyderabad. The deep Stream Shift of the Cutral line now runs between BC clay the red line.

I can understand that it is desirable that X Sh^D continue to regards an enclave of Hyderabad Territory (notwithstanding the established rule of International Law)

Situated inside the British side of the boundary line

But what is the meaning of saying that "boundary should follow the traditional possession". That an imaginary line BC (in black ink) should be still regarded as boundary? Is or is not the red line BC to be a boundary?

[If neither the old BC nor the new BC is to be the boundary, what then?]

Please examine & frame a more precise formula for what evidently both Hyderabad & Mr. Crombie want.

Rel

16-1-[illegible]

T.S
AS (Secret)

To AS

T.S's query above

586C

90C

The cider of the Hyderabad State ~~case~~ which is agreed to by the Govt of Bellary (Mr Crombie is that the old boundary in black ink should still be regarded as the correct boundary. The line BC in black ink may not be the correct medium filum, and may not be

the proper boundary according to the ordinary international law. But generally in the case of such boundary lines in the Madras Province, the line is fixed by planting stones on the banks on either side, the mid point of these demarcated banks forming the mid stream line. The stones planted on the banks will be properly recorded and maintained and the mid stream line can always be related with the help of the recorded measurements. It will not be an imaginary line. As pointed out by Mr Crombie, this will be the easiest way to avoid disputes over traditional ownership. I am also where it may be recommended to the Govt

This, I agree, is clear. But has Hyderabad any

-49.

AL

page

& Gen.

A.D.Co may be asked to offer his remarks

hsr
25/1/40

1/1/40

Hyderabad Centre

The medium filum ... in river between this State would normally be assumed as the boundary line.

This medium filum is:

(a) the centre of the deep cha

This can only refer to

navigable rivers]

(b) the centre between the right and left banks of the river [This can refer only to non-navigable rivers]

2. There are only two inter-state rivers between Madras & Hyderabad.

(1) The Godavery - navigable

(2) The Tungabhadra - generally said to be non-navigable

As regards the Godavery river, the Rule of Boundary was decided in 1912 by a Court of Arbitration. This decision declared the frontier to be the mediumfilum of the deep stream. This could only mean the deep stream for the time being, but subject to the proviso that there should not be any corrupt deviation by way of the river itself abandoning its bed to carve out a new course.

3. All cases of disputed frontiers along the deep stream of the Godavery River would be settled in accordance with the decision of 1912. This was the Board's view as expressed in BP Mis 606 dated 29. 3. 20.

4 What Hyderabad now wants apparently is a clarification of the Arbitrator's decision in respect of

possession of ~~the~~ disputed sites, will be in deciding the boundaries. Hyderabad agrees:-

(a) old right of possession

(b) right of user

will be "taken into account". In fact it is "advisable" that boundary "should follow traditional possession"

5 But possession would not be the determining factor.

6 In so far as the islands in the Godavary river are concerned, the views re: possession demonstrated by Hyderabad may be accepted

7 In practice, presumably the policy followed in ~~accordance~~ established precedents will not be ignored. For instance:

(i) The claim to the island of Mattipadda was conceded to Hyderabad the medium filum was in favour of Madras

(ii) The retention of certain lankas was continued in favour of Hyderabad - the deeper of the two streams flanking the lankas was ~~in~~ in favour of Madras.

8. It would ~~seem~~ therefore that in these cases possession was a material ~~factor~~ factor in determining the

9 There is an inherent difficulty & Counsel in any attempt to reduce to writing a formula in which prescriptive right should be advanced as the determining factor. Some reasons for a hesitant attitude have already been stated by Hyderabad as seen from the Extract of the Proceedings of the 1934 Conference.

10 The deep stream in a navigable river like the Godavery, is a visible and readily identifiable feature. From the very nature of the case, the medium filum is a shifting line. It would be advisable though to indicate on a map of the river the relative positions of the islands likely to be affected by the deviation of the deep stream. This would always ensure identity, as and when questions of transfer of sovereignty arise.

11 As a working arrangement all existing territorial jurisdiction may continue undisturbed until either Govt. is apprised of a local situation involving the deviation of the deep stream.

12 As regards the Tungabhadra in the absence of any mutually agreed upon settlement of the principle of the frontier (for a non-navigable river) the search for a mutually acceptable principle has now to be made.

13 Both Governments agree that the frontier is the medium filum or the mid-stream centre of the river. The difficulty apparently is - how is this centre localisable?

If the median line is to be at all identifiable, this can only be achieved with reference to a mapped frontier. But this would ensue, only if the principle of treating the intervening river as an independent unit for survey is first recognised. The limits of the river as such would have first to be determined on either side. The existing surveyed village boundaries, if any, along the banks may, or may not prove to be co-terminous with the limits that are to be determined for the river as a separate unit. The limits having been agreed upon by a verification made by joint representatives

these demarcated land lines on both would be the bases for ascertaining the median line in the river, and from the survey data so obtained the medium filum would be mapped.

4 At the same time, the banks being subject to Erosion, it would wise not to provide against the contingency of the stones disappearing. The only way is to have a reference land line remote from the river's action, and to have this reference line durably demarcated. (It will be connected with the river limiting line).

15 But if permanency to the mapped frontier is to be satisfactorily ensured there will need to be:

(i) regular maintenance of the demarcation both on the banks along the reference line, and,

(ii) joint periodical inspection of these land boundaries.

16 The above procedure for adopting the principle of a permanent

medium filum as the frontier may facilitate settlement of disputes. But in view of
(a) disputes being rare
(b) the islands of ~~...~~ Campanatively poor territory
(c) the cost of a joint Commission to determine the river limits
(d) the recurring cost of maintenance, and of joint periodical inspections of the land boundaries,
a permanent frontier in such a river as the Tunpa bhadra would not seem to be ~~...~~ essentially necessary in view of the intensive measures required to ~~...~~ determine & maintain the line.

17. The other alternative is to deal with the river as it ever is a natural boundary, and to adopt as the frontier the median line for the time being i.e. with reference to the state of things on the ground at any time.

8. This aspect of Taking the medium line for the time being as the frontier would appear to be implied in the ~~[illegible]~~ expression "the centre between the right and left banks of the river" used in the body of the letter of the Hyderabad Govt. The sense in which this phrase is used will of course require to be further Elucidated if necessary.

9. Assuming that the median line for the time being is meant, the fishing territorial jurisdiction will continue undisturbed until a dispute crops up. As this median line is an invisible unidentifiable line, it would have to be ascertained on site by an ad hoc Commission. The natural physical salients of the banks would serve as terminal stations. The actual points from and to which the measurements are to run across the river would be durably demarcated. The connecting lines to be run to the nearest surveyed boundary

The measured distances would be bisected, and the points joined. This line would be the medium filum, (and as fine a frontier as natural conditions warrant). With the survey data so obtained the site in dispute can be mapped in its true relative position. The merits of the dispute could then be investigated.

21. This method of for ascertaining the medium filum as, and whenever necessary is comparatively inexpensive. At the same time, as the physical features on both ~~the~~ banks are the norm for procedure in the field, erosion on one side with accretion on the other, will more or less cancel out the loss or gain of territory, as a reasonable reach of the river will be dealt with in order to get the many across lines as possible at stated intervals, for bisection.

22 The views of the Hyderabad

garding possession and Rule of
~~Hyderabad~~
Boundary in the a non-navigable
iver like the Tungabhadra
uld require to be further Elucidated
fore it can be said that these views
e unobjectionable.

3. If the frontier is to be unalterable
given fixity of location as explained
bove, the prospects of an early settlement
a claim in which the median line
found to cut across the site is disputed
e likely to be impeded. A land
"frontier bisecting the island would then
e created. Is transfer of sovereignty
the relevant half to follow, without
~~ll~~ regard to possession? It would
eem that if the frontier is fixed, de
ossession must be the determining
ector. Administrative inconvenience would ar
On the other hand if the frontier is
een to be the medium filum for
time being, as explained above
principle of possession as not being
vity factor" put forward by Hyderabad
ems unobjectionable.
A precedent has now been
ublicked. The British claim to
Nittur - Navakalli island has

been allowed. The median line has been indicated on a map. is in favour of Hyderabad. At the same time it cannot be said that this median line represented the line for the time being, or represented a permanent frontier. The line came to be indicated on a map by an office process. Only the Madras Survey, conventionally data of the initial survey maps were utilised. The line thus mapped, does not necessarily give an index of the true relative position, which, a duly verified line, based upon the data of a survey along both banks, would have done.

26. Be this as it may, it would seem that traditional possession was a weighty factor. But there is no concrete case, so far, of a claim being decided with reference to a ratified median line as the fixed frontier.

27. If the Board approves, the views of Hyderabad may first be ascertained on having:

(a) an unalterable frontier line on a map, or

(b) accepting the frontier as the median line for the time

It does not appear that finality could be given to any arrangement come to between the two Govts. Hyderabad is apparently to address H.E. the Crown Representative on the question of ownership of land affected by a change in the course of a river, or its deep channel. It seems advisable therefore that, for the present, some working arrangement be devised between the two Governments. This of course would be without prejudice to the views which may Govt. may put forward on the proposals emanating from H.E. the Crown Representative.

[illegible]
12/2

S. (Sett)

These are the notes of the H.D.C.O. at 18.29 ante. For orders whether the Govt. may replied as mentioned in para 27 of the No. The H.D.C.O. says that the boundary

adjoining the Godavari river should be dealt with differently from the boundary adjoining the Krishna Vathada river. These are the only two rivers forming the boundary between the Madras Province and the Hyderabad State. The reason for this difference is that the Godavari is a navigable river and the Krishnavadha is a non-navigable river.

In the case of the Godavari boundary, the Boundary Commission recommends that the views of the Hyderabad State may be accepted and says it would be advisable to indicate in a map of the area the relative positions of the islands likely to be affected by a deviation of the deep stream. In the case of the Krishna boundary, being of a purely local character, he suggests that the precise views of the Hyderabad State may first be obtained as to where it wishes to have an unalterable frontier indicated on a map or whether it wishes to have the frontier as the median line for the entire area. Maps being expressly adjoined to the Godavari river boundary also, the Commission may be requested to ascertain whether the Hyderabad State wishes to have an unalterable frontier or a median line for the entire length. A copy of the note of the Boundary Commission may also be submitted to the Cabinet. In addition

As (Sett)

To As (Sett)

Draft Submitted.

26.2.40 27/2

27/2/40

28/2/40

J.S

G.O. Rn. No. 1073 Revenue dated 29.4.40

To As (Sett)

The G.O. at pp 93-97 cf. is in reply to the Bds Refce. at pp. 91-92 cf. It may be Communicated to the Collr. of Bellary.

Draft Submitted.

After issue the file might be sent to the Asst for perusal

6.5.40

7/5/40

The file sent to A.D. C.O. in view to his initial on check slip

Dated. No: 1229 of 5-5-60

Full Board. Single Member M/

I.A.	A.D.S. and L.R.	Assistant Secretary			Jt.Secy.	Secy.	M-4.	M-3	M-2	M-1
		Land Rev.	Settle-ment.	Sep Rev.						
			✓		✓					
Open file seen by			✓							
Final draft seen by			✓							
Now circulated to										
Initials.										

Passed for record.

~~Secretary.~~
Joint Secretary.

A.S. (C.W.)

A.S. (L.R.)

A.S. (Sett.) 30/5/60

A.S. (Excise).

A.D.S. & L.R.

I.A.

Note:- Entries not required to be scored out.

Seen by HDCC 29/5.

16/5-